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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 155.

JOHN N. HALL, J. J. THORNTON, JAMES B. HUBBELL, LUCIUS DYER, WM. REID, ET AL., PLAINTIFFS IN ERROR,

VS.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

FILED MARCH 2, 1874.

SUPREME COURT OF THE UNITED STATES.

No. 155.

JOHN N. HALL, J. J. THORNTON, JAMES B. HUBBELL, LUCIUS DYER, WM. REID, ET AL., PLAINTIFFS IN ERROR,

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IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States of America in and for the district of Minnesota, greeting:

Because in the record and process, and also in the rendering of judgment in a suit before you or some of you, between The United States of America, plaintiff, and John Norris Hall, James Johnson Thornton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philip Blatt, Marcus Tullius Cicero Flower, Luther Gates Barrett, Clinton Bolivar Hensley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, & James Ray Tinkham, defendants, in a plea which is in said circuit court, a manifest error hath happened, to the great damage of the said defendants, as they say; and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the
2 Supreme Court of the United States of America, together with this writ, so that you have the same at Washington on the , in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the honorable Nathan Clifford, senior associate justice of the Supreme Court of the United States of America, at Saint Paul, in the district of Minnesota, this nineteenth day of July, in the year of our Lord one thousand eight hundred and seventy-three, and of our Independence the ninety-eighth year.

[SEAL.] H. E. MANN,
Clerk U. S. Circuit Court, Dist. of Minnesota.

3 UNITED STATES OF AMERICA,
District of Minnesota, ss:

The answer of the judges of the circuit court of the United States for the district of Minnesota in within writ mentioned.

The record and proceedings whereof mention is within made, with all things concerning the same, are hereby respectfully certified to the justices of the Supreme Court of the United States within mentioned in a certain schedule to this writ annexed, as within it is commanded.

Witness the honorable Nathan Clifford, senior associate justice of the Supreme Court of the United States, the tenth day of September, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States the ninety-eighth year.

[SEAL.] H. E. MANN, *Clerk.*

(Indorsed:) Supreme Court U. S. J. N. Hall et al., plffs. in error, vs. The United States, deft. in error. Writ of error.

4 UNITED STATES OF AMERICA, *ss:*

To the United States of America, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second

Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Minnesota, wherein John Norris Hall, James Johnson Thornton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philip Blatt, Marcus Tullius Cicero Flower, Luther Gates Barrett, Clinton Bolivar Hensley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkham, are plaintiffs in error, and the United States of America are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Rensellaer R. Nelson, one of the judges of the circuit court of the United States for the district of Minnesota, this 19th day of July, A. D. 1873.

R. R. NELSON,
One of the judges of the circuit court of the
5 *United States for the district of Minnesota.*

(Indorsed:) U. S. C. court. The United States vs. J. N. Hall et al. Citation. Filed July 19, 1873. H. E. Mann, clerk. Gilfillan & Williams, attys. for defts.

Due service of the within is admitted, July 19, 1873.

C. K. DAVIS, *Dist Atty.*,
Per O. B., *Asst.*

6 *Schedule referred to in return to annexed writ of error.*

THE UNITED STATES
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philip Blatt, Marcus Tullius Cicero Flower, Luther Gates, Barrett Clinton, Bolivar Hensley, Charles Theodore Heilborne, Francis Marrion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkham.

Pleas before the honorable the judges of the circuit court of the United States of America in and for the district of Minnesota.

DISTRICT OF MINNESOTA, *ss:*

Be it remembered that on the sixth day of December, A. D. 1873, was filed in the clerk's office of said circuit the return to a writ of error theretofore issued out of said circuit court to the district court of the United States for said district; which writ of error, with the said return thereto and the citation therewith returned, with proof of service thereon indorsed, are in the words and figures following, viz:

7 UNITED STATES OF AMERICA:

The President of the United States to the judge of the district court of the United States for the district of Minnesota, greeting:

Because in the record and proceedings and also in the rendition of the

judgment of a plea which is in the said court before you, between the United States of America, plaintiff, John N. Hall, James J. Thornton, James B. Hubbell, Lucius Dyer, William Reid, D. Ransom Brooks, Ephraim Cole, Ernest F. Prael, Henry Humphrey, Phillip Blatt, Marcus T. C. Flower, Luther Gates Barrett, Clinton B. Hensley, Charles T. Holburn, Francis M. Gunning, Ira Simpson Smith, Daniel H. Tyner, and James R. Tinkham, defendants, a manifest error hath happened, to the great damage of the said defendants, as by their complaint appears; we, being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then,
8 under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the circuit court of the United States, together with this writ, so that you may have the same at Saint Paul in the said district, on the 9th day of December next, in the said circuit court to be then and there held, that, the record and proceedings aforesaid being inspected, the said circuit court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States of America, at St. Paul, in the district of Minnesota, this 20th day of August, in the year of our Lord one thousand eight hundred and seventy-two, and of our Independence the ninety-seventh year.

H. E. MANN,
Clerk of the U. S. Circuit Court, Dist. of Minnesota.

The answer of the judge of the district court of the United States for the district of Minnesota in the foregoing writ mentioned.

The record and proceedings whereof mention is made in said writ, with all things concerning the same, are hereby respectfully cer-
9 tified to the judges of the circuit court therein mentioned, in a certain schedule to this writ annexed, as by the same it is commanded.

Witness the Hon. Rensselaer R. Nelson, judge of said district court, and the seal thereof, at St. Paul, in said district, this 25th day of November, 1872.

[SEAL.] WM. A. SPENCER, *Clerk.*

(Endorsed:) U. S. C. court., dist. of Minnesota. United States, deft. in error, v. J. N. Hall et al., plff' in error. Writ of error. Filed Aug. 20, 1872. Wm. A. Spencer, clk. U. S. dist. court Minn., by H. E. Mann, deputy. Gilfillan & Williams, Woolfolk & Brown, attys. for plff. in error.

UNITED STATES OF AMERICA, *ss:*

To the United States, greeting:

You are hereby cited and admonished to be and appear at a circuit court of the United States to be holden at Saint Paul, in the
10 district of Minnesota, on the 9th day of December, A. D. 1872, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the district of Minnesota, wherein John Norris Hall, James Joshua Thornton, James Boyd Hubbell, Lucius

Dyer, William Reid, D. Ransom Brooks, Ephraim Cole, Ernst Frederick Prael, Henry Humphrey, Phillip Blatt, Marcus Tullius Cicero Flower, Luther Gates Barrett, Clinton Boliver Hensley, Charles Theodor Holburn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkham, are plaintiffs in error, and the United States of America are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, this 10th day of August, in the year of our Lord one thousand eight hundred and seventy-two.

R. R. NELSON,
Dist. Judge.

(Endorsed:) U. S. C. court, dist. of Minnesota. United States,
11 deft. in error, v. J. N. Hall et al., plff' in error. Citation. Filed August 20, 1872. Wm. A. Spencer, clerk, by H. E. Mann, deputy. Gilfillan & Williams, attys. for plff. in error.

Due service of the within citation is admitted.
August 20, 1872.

C. K. DAVIS,
Dist. Atty., Minn.

Schedule referred to in foregoing return.

U. S. district court, district of Minnesota.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole,. Ernest Frederick Prail, Henry Humphrey, Phillipp Blatt, Marcus Tullius Cicero Flower, Luther Gates Barott, Clinton Boliver Hensley, Charles Theodor Hielborn,
12 Francis Marion Gunning, Ira Simpson Smith, David Harris Tyner, and James Ray Tinkcom.

Pleas before the honorable the judge of the United States district court for the district of Minnesota.

The summons and the return thereof in said action are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Minnesota:

The President of the United States of America to the marshal of the district of Minnesota, greeting:

You are hereby commanded to summon John Norris Hall, James Johnson Thornton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philipp Blatt, Marcus Tullius Cicero Flower, Luther Gates

Barott, Clinton Bolivor Hensley, Charles Theodor Heilbon, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkcom, defendants, to appear before the district court of the United States for the district of Minnesota aforesaid, at St. Paul, in said district, on the 26th day of July, A. D. 1869, then and there to answer unto the United States of America, plaintiff, in a plea
13 that they render to said plaintiff the sum of $25,000.00, which they owe to said plaintiff, and unjustly detain to plaintiff's damage $25,000.00, which shall then and there be made to appear. And of this writ make due return.

Witness the Hon. Rensselaer R. Nelson, judge of the said district court of the United States of America, at Saint Paul, in said district of Minnesota, this 9th day of July, in the year of our Lord one thousand eight hundred and sixty-nine, and of our Independence the ninety-fourth year.

[SEAL.] WM. A. SPENCER, *Clerk.*

C. K. DAVIS,
Plaintiff's Attorney.

DIST. OF MINNESOTA, *ss:*

I hereby certify that I served the within summons on the within-named John N. Hall, William Reid, Dr. Ransom Brooks, E. F. Prael, Philipp Blatt, Chas. F. Heilbone, Ira Simpson Smith, Danl. H. Tyner, and James R. Tinkam, personally, at Mankato, in said district, July 16, 1869, and served the same on Lucius Dyer, personally, at Rapidan, in said dist., and on Henry Humphrey, at Christal Lake, in said district, personally, July 17, 1869. And I do further certify that I have made diligent search and inquiry for the other of said defendants named in said summons, but cannot find them in said dist.

AUG. ARMSTRONG,
U. S. Marshal,
14 By J. R. CLEVELAND,
Deputy.

Fees: Service, $22.00; tr. & expenses, 32.00—$54.00.
The pleadings in said action are as follows, to wit:

Declaration.

In the district court of the United States, district of Minnesota.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNTON, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philipp Blatt, Marcus Tullius Cicero Flower, Luther Gates Barott, Clinton Bolivar Huesley, Charles Theoder Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkcom.

DISTRICT OF MINNESOTA, *ss:*

The United States of America, the plaintiff in this suit, complains of John Norris Hall, James Johnson Thornton, James Boyd Hub-
15 bell, Lucius Dyer, William , Doctor Ransom Brooks,

Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philipp Blatt, Marcus Tullius Cicero Flower, Luther Gates Barott, Clinton Bolivar Huesley, Charles Theoder Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkcom, of plea that they render to the said the United States of America the sum of fifty thousand dollars, which they owe and unjustly detain from it.

For that whereas the said defendants heretofore, to wit, on the fourth day of October, in the year of our Lord one thousand eight hundred and sixty-two, at the county of Blue Earth, in the State and district of Minnesota, by their certain writing obligatory, sealed with their several seals, and duly executed to the plaintiff, acknowledged themselves to be held and firmly bound unto the plaintiff in the sum of twenty-five thousand dollars, parcel of the sum above demanded. Yet the said defendants, or any of them, (though often requested so to do,) have not as yet paid the said sum of twenty-five thousand dollars, or any part thereof, to the said plaintiff, but have hitherto wholly neglected and refused, and still neglect and refuse so to do.

Wherefore the said plaintiff saith that it is injured, and hath sustained damage to the amount of twenty-five thousand dollars,
16 and therefore it brings its suit, &c.

And the plaintiff brings here into court the said writing obligatory, sealed as aforesaid, which gives sufficient evidence to the said court here of the debt aforesaid, in form aforesaid, the date whereof is a certain day and year therein mentioned, to wit, the day and year in that behalf above mentioned.

C. K. DAVIS,
U. S. Attorney Dist. of Minn.

Pleas.

In the district court of the United States of America, district of Minnesota.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL ET AL.

Non est factum /

And the said defendants, by Woolfolk & Brown, their attorneys, come and defend the wrong and injury, when, &c., and crave oyer of the said supposed writing obligatory in the said declaration mentioned, and it is read to them, &c., and they also crave oyer of the condition of the said supposed writing obligatory, and it is read to them in these words:

"The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed
17 the said John Norris Hall collector of taxes, under an act entitled 'An act to provide internal revenue to support the Government, and to pay interest on the public debt:' Now, therefore, if the said John Norris Hall has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute

and discharge, all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue."

Duly signed and sealed by the parties hereto, which being read and heard, the said defendants say that the said supposed writing obligatory is not their deed. And of this they put themselves upon the country, &c.

WOOLFOLK & BROWN,
Attys. for Defendants.

2nd Plea. 2 performed

18 And the said defendants, by leave of the court first had in this behalf, for further plea herein, by Woolfolk & Brown, their attorneys, come and defend the wrong and injury, when, &c., and crave oyer of the said supposed writing obligatory in the said declaration mentioned, and it is read to them, &c., and they also crave oyer of the condition of the said writing obligatory, and it is read to them in the words and figures following:

"The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed the said John Norris Hall collector of taxes, under an act entitled 'An act to provide internal revenue to support the Government, and to pay interest on the public debt:' Now, therefore, if the said John Norris Hall has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector has truly and faithfully executed and discharged, and
19 shall continue truly and faithfully to execute and discharge, all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue."

Duly signed and sealed by the parties hereto.

And the said defendants say actio non, because they say that the said defendant, John Norris Hall, so having been appointed collector of taxes as aforesaid, and having received said appointment and entered upon the discharge of his duties as such collector, did, from time to time, and at all times, both before and after the making of the said writing obligatory, and the condition thereof, well and truly observe, perform, fulfil, and keep all and singular the articles, clauses, payments, conditions, and agreements in the said condition of the said writing obligatory specified and mentioned, in all things, therein contained on his part to be observed, performed, fulfilled, and kept, according to the tenor and effect, true intent and meaning, of the said condition of the said writing obligatory.

And the said defendants further aver that each and every deputy collector appointed by said collector, John Norris Hall, has truly and faithfully executed and discharged, and from time to time, and at all times, both before and after the making of the said writing obliga-
20 tory, and the said condition thereof, did well and truly perform, fulfil, and observe all the duties of deputy collectors according to law on their part to be observed, kept, and performed, as specified and mentioned in said writing obligatory, and the condition thereof thereto attached.

Wherefore the said defendants say that all the conditions and obliga-

tions of the said writing obligatory, and the condition thereof, have been complied with and faithfully and truly performed on the part of the said defendant, John Norris Hall. And this they are ready to verify. Wherefore they pray judgment, &c.

WOOLFOLK & BROWN,
Attys. for Defendants.

In the district court of the United States, district of Minnesota.

UNITED STATES OF AMERICA,
State of Minnesota, ss:

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL ET AL.

And the said defendants, by Woolfolk & Brown, their attorneys, for further plea herein, and to the several breaches assigned to the conditions of said writing obligatory, say that the said plaintiff, by reason of anything by it in said declaration alleged, ought not, as to the sum
21 of $8,203.06, part of the debt demanded, to have or maintain its aforesaid action thereof against them, the said defendants, because they say that the said plaintiff, before and at the time of the commencement of this suit, at, &c., the district aforesaid, and from thence hitherto, hath been and still is indebted to the said defendant, John Norris Hall, in the sum of $8,203.06, lawful money, for money before that time advanced to, paid out expended by, said defendant Hall, to and for the use of said plaintiff, and at its instance and request; and also in the like sum of $8,203.06 for money before and at that time due and owing from said plaintiff to said defendant Hall, for the work and labor of said Hall and his servants and deputies, done and performed by him, his servants and deputies, as such collector, for said plaintiff, and at plaintiff's instance and request; and in the like sum of $8,203.06, due and owing from said plaintiff to said defendant Hall, for the salary of said Hall as such collector, from the 17th day of March, 1863, to the 2d day of November, A. D. 1866; and in the like sum of $8,203.06 for the commission due from said plaintiff to said defendant Hall on money collected by said Hall, and for express charges paid by said Hall
22 on money remitted him as such collector by his deputies; and in the like sum of $8,203.06, before that time and prior to the commencement of this suit due and owing from said plaintiff to said defendant Hall, for extra services of said Hall and his servants, done and performed by said Hall and his servants special instance and request of said plaintiff; which said sums of money so due and owing from the said plaintiff to the said defendant Hall they, the said defendants, are ready and willing, and hereby offer, to set-off and allow to the said plaintiff, according to the form of the statute in such case made and provided; and this the said defendants are ready to verify, &c.

JAMES GIFILLAN, AND
WOOLFOLK & BROWN,
Attys. for Defendants.

United States to John N. Hall, late collector of internal revenue, first division of Minnesota.

	Dr.	Cr.
On compensation-account No. 435, for quarter ending Sept. 30, 1866:	$ cts.	
To rent of office to that date	60 00	
" lights used in and about same	5 80	
" hire paid clerks	648 00	
" fuel for office	6 00	
	719 80	
23 On compensation-account, up to and including November 2d, 1866:		
Amount paid deputies	$5,010 00	
Rent of office, $64; lights for same, $1; fuel for same, $6	71 00	
Clerk-hire paid	176 00	
Express-charges on money transmitted to said Hall	51 40	
Suspended from previous a/c for advertizing	5 50	
Balance due on collector's salary from 1st July, 1866, to November 1, 1867	298 00	
Clerk-hire paid in making up a/c during November 2d, 1866, & until books delivered to successor in office,	2,094 00	
Assistant assessor's bills paid up to July 1st, 1865	80 83	
	7,786 78	
Recapitulation:		
On compensation a/c No. 435	719 80	
" " " " 1124	161 48	
" " " " 2169	7,786 70	
	$8,668 06	

In the district court of the United States, district of Minnesota.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL ET AL.

Replication.

24 And the said plaintiff, to the plea of the said defendants by them first above pleaded, whereof they have put themselves upon the country, doth the like, &c.

C. K. DAVIS,
U. S. Dist. Atty.

And the said plaintiff, to the plea of the said defendants by them secondly above pleaded, saith that the said plaintiff ought not to be debarred from having and maintaining its said action against the said defendants, because it says, and gives the court now here to understand and be informed, that while it is true that the said writing obligatory in the said declarations mentioned is subject to a certain condition there-

under written, which said condition and all recitals in said writing obligatory contained are fully and correctly set forth and stated in the said plea of the said defendant, nevertheless, for assigning breaches of the said condition of the said writing obligatory, the said plaintiff, in fact saith, that the said John Norris Hall hath not, from the time of making the said writing obligatory, and had not at the time of making the same, truly and faithfully executed and discharged the duties of said office according to law, but that the said defendant hath hitherto
25 wholly neglected and refused so to do, contrary to the form and effect of the said writing obligatory and of the conditions thereof; and this it is ready to verify.

And the said plaintiff, for assigning a further breach of the said condition of the said writing obligatory, further says that the said John Norris Hall has not, from the time of making the said writing obligatory, justly and faithfully accounted for or paid over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which have come into his hands and possession, but that the said defendant did, prior to the commencement of this suit, have in his possession, and that there did come into his hands and possession, as such collector of internal revenue, long prior to the bringing this suit, a large amount of public moneys, to wit, the sum of twenty thousand five hundred and three dollars and twenty cents, which, by the orders and regulations of the Secretary of the Treasury, he was required to account for and pay over to the United States prior to the bringing of this action, but that the said defendant hath hitherto wholly neglected and refused to account for and pay over the same, though ofter thereto requested, and still so neglects and
26 refuses, contrary to the form and effect of the said writing obligatory, and of the condition thereof, to the plaintiff's damage twenty-five thousand dollars. And this it is ready to verify, &c.

And the said plaintiff, for assigning a further breach of the condition of the said writing obligatory, further says that the several deputy collectors appointed by the said John Norris Hall, whose names the plaintiff is unable to give, have not, from the time of making the said writing obligatory, faithfully and truly executed and discharged their duties according to law, but that the said several deputy collectors did, long prior to the commencement of this suit, receive and collect, as such deputy collectors, but in what amount distributively the plaintiff is unable to state, certain other public moneys, to wit, the sum of twenty-five thousand dollars, which, although it was their duty so to do, they have severally neglected and refused to pay over or to account for to the United States, and still so neglect and refuse, contrary to the form of and effect of the said writing obligatory and of the condition thereof, to the plaintiff's damage twenty-five thousand dollars. And this it is ready to verify, &c.

And the said plaintiff, for assigning a further breach of the condition of the said writing obligatory, further saith that the said John
27 Norris Hall has not, from the time of making the said writing obligatory, truly and faithfully executed and discharged the duties of the said office according to law; but that there was found due from the said Hall, as such collector, upon an adjustment, statement, and settlement of his accounts as such collector, had and made by the proper officers of the Treasury of the United States, on or about the 29th day of January, A. D. 1869, the further sum of twenty-one thousand one hundred and three dollars and twenty-three cents, on account of public moneys of the United States with which he was then and there, and still is, chargeable as such collector, which sum, though long since due and

payable to the United States, the said Hall has neglected and refused to pay over or to account for, and still does neglect and refuse to pay over or to account for, contrary to the form and effect of the said writing obligatory and of the condition thereof, to this plaintiff's damage twenty-five thousand dollars; and this it is ready to verify, &c.

Therefore, let a jury thereupon come before the said court on the 4th day of October, A. D. 1869, at the place of holding the said court, in the city of St. Paul, in said district, by whom, &c., and who, neither, &c., because, &c., as well to try the said issues above joined between the said parties as to inquire of the truth of the matters by the said
28 plaintiff above suggested and assigned; and, to assess what damage the said plaintiff hath sustained by reason of the said breaches of the said condition of the said writing obligatory, the day is given to the said parties at the same place, &c.

C. K. DAVIS,
Dist. Atty.

District court of the United States for the district of Minnesota.

THE UNITED STATES
vs.
JOHN N. HALL ET AL.

It is hereby stipulated by and between the parties to the above-entitled action, by their respective attorneys, that the parties hereby waive a jury-trial in said cause, and consent to a trial thereof by the court without a jury.

C. K. DAVIS,
U. S. Dist. Atty.
WOOLFOLK & BROWN, WITH
JAMES GILFILLAN,
Attys. for Defendants.

U. S. district court, district of Minnesota, October term, A. D. 1871.

THURSDAY, *January* 18, 1872.

THE UNITED STATES
vs.
29 JOHN NORRIS HALL ET AL.

This cause coming on to be heard before the court without a jury, C. K. Davis appears for plaintiff and James Gilfillan, esq., for defendants.

The cause is opened for plaintiff by C. K. Davis. The proofs on the part of the plaintiff are put in, and it rests its case.

Case opened for defendants by James Gilfillan, esqr.

John Norris Hall is sworn and examined as a witness for defendants.

U. S. district court, district of Minnesota, October term, A. D. 1871.

FRIDAY, *January* 26, 1872.

THE UNITED STATES
vs.
JOHN NORRIS HALL ET AL.

This cause coming on to be further heard, the testimony was closed

and the cause was argued by the attorneys for the respective parties, and submitted to the court, and by the court held under advisement.

U. S. district court, district of Minnesota, October term, A. D. 1871.

THURSDAY, *June 6th*, 1872.

30 THE UNITED STATES OF AMERICA, plaintiff,
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Marcus Tullius Cicero Flower, Philipp Blatt, Luther Gates Barott, Clinton Bolivar Heusley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkcom, defendants.

The issues of fact in the above-entitled cause came on for trial at the October term, 1871, of the said court, and the plaintiff appeared by C. K. Davis, United States district attorney for the district of Minnesota, and the defendants appeared by Messrs. Woolfolk & Brown and Gilfillan, their attorneys, and a trial by jury was then and there duly waived by all of said parties, in writing, in manner and form provided by law, and the said cause was thereby agreed to be tried by the court without a jury; and the said cause was then and there so tried by the said court, upon the pleadings, proofs, and arguments adduced
31 by the said parties, and submitted. And the court, not being then sufficiently advised of and concerning what should be its judgment in the premises, took time to consider thereof.

And the said court, being now sufficiently advised in the premises, it is by the said court hereby considered, ordered, and adjudged, that the plaintiff do have and recover of and from the above-named defendants, and of and from each of them, the sum of eleven thousand five hundred and seventeen $\frac{63}{100}$ ($11,517.63) dollars, with costs to be taxed.

June 6, 1872.

R. R. NELSON, *Judge*.

In the district court of the United States for the district of Minnesota.

THE UNITED STATES
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Marcus Tullius Cicero Flower, Philipp Blatt, Luther Gates Barott, Clinton Bolivar Heusley, Charles Theodor Heilborn,
32 Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, and James Ray Tinkcom.

Be it remembered that, at the general term of this court, held at the city of St. Paul, within and for said district, on the first Monday in Oc-

tober, 1871, Hon. R. R. Nelson, district judge, presiding, this cause coming on for trial, the parties, by their respective attorneys, made and filed a stipulation in writing, whereby they waived a trial by jury, and consented that the cause might be tried by the court without a jury; and thereupon the cause came on for trial, and was tried by the court without a jury, by his honor the said judge. And, to maintain the issues on its part, the plaintiff offered in evidence a certain roll of papers, to which was appended a certificate in the words and figures following, to wit:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
June 3, 1869.

Pursuant to the act of March 3, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and the receivers of public moneys," I, J. A. Graham, acting Register of the Treasury Department, do hereby certify that the annexed copies of the report of the Fifth Auditor of the Treasury, num-
33 bered 90, 216, 474, 670, 858, 998, 1258, 3090, and 3329, as admitted and certified by the Comptroller, upon the accounts of John N. Hall, late collector of internal revenue for the first district of Minnesota, under his bonds, dated October 4, 1862, and March 17, 1863, and of the statements of differences thereon, are a transcript from the books of the Treasury, and that the copies of the accounts of said collector are true copies of the originals on file in this Office.

J. A. GRAHAM,
Acting Register.

To which roll of papers defendants objected that the same is not certified as a transcript of the whole account of the defendant Hall, but only of certain portions thereof; which objection of the defendants was by his honor the judge overruled and the roll of papers admitted in evidence; to which ruling and decision the defendants, by their counsel, then and there excepted.

And in said papers so received in evidence there was stated as a balance in favor of the United States, and against the said John N. Hall, such collector, on the 9th day of February, 1869, the sum of $20,120. That upon such papers did not appear as credited to him any of the items or offsets hereinafter stated, and by the same it appeared that the collections of said John N. Hall, as collector, during the year prior
34 to the 30th day of October, 1866, amounted to $77,702.08, and that during such period no extra allowance over and above his salary and commissions as collector were made to said John N. Hall; and it was thereupon admitted that in October, 1870, defendants paid into court, and plaintiff accepted, $11,435.17 of such balance.

And thereupon the plaintiff rested its cause.

And the defendants, to maintain the issues on their part, proved that prior to the commencement of this action the defendant John N. Hall submitted to the consideration of the accounting officers of the Treasury Department an itemized statement or account of moneys by him paid to sixteen deputy collectors by him employed in his collection-district during the months of July, August, September, and October, 1866, at the rate of three dollars per day each, amounting, in the aggregate, to five thousand and ten dollars, and asked to have the same allowed him as a credit in his said account with the United States, and that prior to the commencement of this action said account was by such officers wholly rejected.

And, further to maintain the issues on their part, the defendants thereupon offered to prove, by competent evidence the various items of said itemized statement or account, and that said John N. Hall, as such
35 collector, necessarily employed within his collection-district, during the months of July, August, September, and October, 1866, sixteen deputy collectors, and necessarily and reasonably paid them at the rate of three dollars per day each, and that the aggregate so paid by him was five thousand and ten dollars; and also that during previous years of his term of office as such collector he had employed and paid for similar services during said months in his said district fifteen deputy collectors, at the same rate per day, and that always prior to the year 1866 the Treasury Department had allowed him as a credit in his accounts with the United States the amount so paid by him to such deputy collectors.

The court then and there admitted said evidence, and decided the facts to be as the defendants so offered to prove them, but then and there decided that said item of $5,010 was not a proper offset in this action, and that the rejection of the same by the accounting officers was legal; to which ruling and decision the defendants, by their counsel, then and there excepted.

And, further to maintain the issues on their part, the defendants proved that prior to the commencement of the action the defendant John N. Hall submitted to the consideration of the accounting
36 officers of the Treasury Department an itemized statement or account of moneys by him paid for hire of clerks in his office, as such collector, during the quarter ending September 30, 1866, amounting to $648, and asked to have the same allowed him as a credit in his accounts with the United States, and that prior to the commencement of the action such account and claim was by such officers wholly rejected.

And, further to maintain the issues on their part, the defendants offered to prove by competent evidence the various items of said itemized statement or account, and that said John N. Hall, as such collector, necessarily paid for hire of clerks in his said office during the quarter ending September 30, 1866, the said items, amounting to $648; and also that prior thereto the Treasury Department had always allowed him, as a credit in his account with the United States, the amount of moneys by him necessarily paid for hire of clerks in his office.

The court then and there admitted such evidence, and declared the facts to be as the defendants so offered to prove them, but then & there decided that said item of $648 was not a proper offset in this action, and that the rejection of the same by the accounting officers was legal; to which ruling and decision the defendants, by their counsel, then and there excepted.

37 And, further to maintain the issues on their part, the defendants proved that prior to the commencement of this action the defendant John N. Hall submitted to the consideration of the accounting officers of the Treasury Department an itemized statement or account of moneys paid by him for hire of clerks in his said office, in making out the accounts and returns thereof, between the 1st day of October, 1866, and the 30th day of June, 1867, amounting to $1,100, and asked to have the same allowed him as a credit in his said account with the United States, and that prior to the commencement of this action such account and claim was by said officers wholly rejected.

And, further to maintain the issues on their part, the defendants offered to prove the items of said itemized statement or account, and that said John N. Hall had, between the 1st day of October, 1866, and the

30th day of June, 1867, necessarily paid for hire of clerks, in the business of his said office and in making out the accounts and returns thereof, the items set forth in said account*ing*, amounting to $1,100; that he was removed from his said office on the 1st day of November, 1866, during the collecting of his annual list, in the busiest part of the year, and when the clerical business of the office was necessarily behind.

38 The court then and there admitted the evidence, and decided the facts to be as the defendants so offered to prove them, but then and there decided that said item of $1,100 was not a proper set-off in this action, and that the rejection of the same by the accounting officers was legal; to which ruling and decision the defendants, by their counsel, then and there excepted.

And the defendants thereupon rested their case.

And thereupon the court rendered judgment for plaintiff and against the defendants for the sum of eleven thousand five hundred seventeen dollars sixty-three cents.

And because none of said matters do appear of record in said cause, I, the judge who tried the cause, have this 3d day of July, 1872, settled, signed, and sealed this bill of exceptions.

R. R. NELSON, *Judge.* [SEAL.]

District court of the United States for the district of Minnesota.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL ET AL.

Of the term of October, in the year of our Lord one thousand eight hundred and seventy-one.

39 Afterwards, to wit, on the 6th day of June, A. D. 1872, came the said John Norris Hall et al., defendants, by Woolfolk & Brown, their attorneys, and say that in the record and proceedings aforesaid, and also in giving judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears that, upon the several matters of set-off appearing in said record, judgment was given for the said The United States of America, and against the said John Norris Hall et al., whereas by the law of the land the said judgment ought to have been given upon said *of* set-off for the said John Norris Hall et al. and against the said The United States of America.

And the said John Norris Hall et al. pray that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that they may be restored to all things which they have lost by occasion of said judgment.

WOOLFOLK & BROWN,
Attys. for John Norris Hall et al., Defts.

40 (Endorsed:) U. S. district court, district of Minnesota. The United States vs. John Norris Hall et al. Return to circuit court. Filed Dec. 6, 1872. H. E. Mann, clerk.

41 And afterwards, to wit, at a general term of said circuit court, begun and held at the city of Saint Paul, in said district, on the second Monday, being the ninth day, of December, in the year of our Lord one thousand eight hundred and seventy-two, and on the nine-

teenth day of said December, the following proceeding, among others, was had, viz:

THE UNITED STATES
vs.
JOHN NORRIS HALL ET AL.

The cause, which was brought to this court from the United States district court for this district, by writ of error, coming on to be heard, was argued by counsel and submitted to the court, and by the court held under advisement, his honor Judge Dillon sitting alone.

And afterwards, to wit, at a general term of said circuit court, begun and held at the city of Saint Paul, in said district, on the third Monday, being the sixteenth day of June, in the year of our Lord one thousand eight hundred and seventy-three, and on the nineteenth day of said June, the following proceeding, among others, was had, viz:

42 UNITED STATES
vs.
JOHN NORRIS HALL ET AL.

In this cause, which was removed from the district court of the United States for this district by writ of error, and heretofore submitted to the court, the honorable John F. Dillon, judge, sitting alone, and by the court held under advisement, now, the court being advised in the premises, it is considered, ordered, and adjudged that the judgment of the said district court be, and the same is, in all respects, affirmed, and that the plaintiff also have and recover of and from the defendants its costs in this behalf expended, to be taxed, and have execution therefor.

Judgment-record signed this nineteenth day of June, A. D. 1873.

H. E. MANN, *Clerk.*

And afterwards, to wit, on the nineteenth day of July, 1873, came the said defendants, by Messrs. Gilfillan Williams, their attorneys, and filed in the clerk's office of said court an allowance of a writ of error, which allowance was in writing and signed by the Hon. Rensselaer R. Nelson, one of the judges of said court, and in the words and figures following, viz:

43 Circuit court of the United States, for the district of Minnesota.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philip Blatt, Marcus Tullius Cicero Flower, Luther Gates Barott, Clinton Bolivar Hensley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, James Ray Tinkham.

And now the above-named defendants, after a final judgment entered in this cause, come and show to the court that the matter in dispute

exceeds the sum of two thousand dollars, and thereupon claim a writ of error from the said judgment to the Supreme Court of the United States next to be holden at Washington on the second Monday of October next; and the same is accordingly allowed, and the plaintiffs in error are ordered to serve the usual citation according to law.

R. R. NELSON, *Judge.*

(Endorsed:) Filed July 19, 1873. H. E. Mann, clerk.

44 And afterwards, to wit, on the 19th day of July, A. D. 1873, came the said defendants, by their said attorneys, and filed in the clerk's office of said circuit court their bond, duly approved, which bond, with the approval thereon endorsed, are in the words and figures following, viz:

45 *Bond.*

Supreme Court of the United States.

THE UNITED STATES OF AMERICA
vs.
JOHN NORRIS HALL, JAMES JOHNSON THORNTON, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphreys, Phillip Blatt, Marcus Tullius Cisero Flower, Luther Gates Barott, Clinton Bolivar Hensley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, James Ray Tinkham.

Know all men by these presents, that we, John Norris Hall, James Boyd Hubbell, and James Ray Tinkham, as principals, and John A. Willard, Samuel Randall, and John J. Shaubut as sureties, each of the city of Mankato, county of Blue Earth, and State of Minnesota, are held and firmly bound unto the United States of America in the sum of fifteen thousand dollars, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 8th day of July, A. D. 1873.

46 Whereas the above-named John Norris Hall, James Johnson Thornton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philip Blatt, Marcus Tullius Cicero Flower, Luther Gates Barott, Clinton Boliver Hensley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith, Daniel Harris Tyner, James Ray Tinkham, have prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled suit by the circuit court of the United States for the district of Minnesota:

Now, therefore, the condition of the above obligation is such, that if the above-named John Norris Hall, James Johnson Thornton, James Boyd Hubbell, Lucius Dyer, William Reid, Doctor Ransom Brooks, Ephraim Cole, Ernest Frederick Prail, Henry Humphrey, Philip Blatt, Marcus Tullius Cicero Flower, Luther Gates Barott, Clinton Bolivar Hensley, Charles Theodor Heilborn, Francis Marion Gunning, Ira Simpson Smith,

Daniel Harris Tyner, James Ray Tinkham, shall prosecute their said writ of error to effect and answer all damages and costs, if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

JOHN NORRIS HALL. [L. S.]
JAMES BOYD HUBBELL. [L. S.]
47 JAMES RAY TINK'AM. [L. S.]
JOHN A. WILLARD. [L. S.]
SAMUEL RANDALL. [L. S.]
JOHN J. SHAUBUT. [L. S.]

Signed & sealed in presence of—
K. Z. HALL,
GEO. H. BREWSTER.

STATE OF MINNESOTA,
County of Blue Earth, ss:

Before me, on this 8th day of July, 1873, personally appeared John Norris Hall, James Boyd Hubbell, and James Ray Tinkham, principals in the foregoing bond, and who, each for himself, acknowledged the execution of the same to be his free act and deed, for the uses and purposes therein expressed. And also, at the same time and place, came John A. Willard, Samuel Randall, and John J. Shaubut, whose names appear to the said bond, and who are the sureties therein named, and who, each for himself, acknowledged the execution of the same to be his free act and deed, for the uses and purposes therein set forth, and who, each on his oath, being duly sworn, say' that he is a resident and freeholder of the city of Mankato, county and State aforesaid, and that he is worth, above his debts, liabilities, and exemptions, the full sum of five thousand dollars.

JOHN A. WILLARD. [L. S.]
SAMUEL RANDALL. [L. S.]
JOHN J. SHAUBUT. [L. S.]

Subscribed, acknowledged, and sworn to before me this 8th day of July, 1873.

[NOTARIAL SEAL.] GEORGE H. BREWSTER,
Notary Public, Mankato, Minn.

48 (Endorsed:) I hereby approve the within bond.
R. R. NELSON, *Judge.*

Filed July 19, 1873.
H. E. MANN, *Clerk.*

(Indorsement on cover:) No. 155. John N. Hall, J. J. Thornton, Jas. B. Hubbell, Lucius Dyer, Wm. Reid, et al., plaintiffs in error, vs. The United States. Minnesota C. C. U. S. Filed 2d March, 1874.